Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

PEDRO NOSNIK MD PA
4100 WEST 15TH STREET SUITE 206
PLANO TX 75093

Respondent Name
LIBERTY INSURANCE CORP

Carrier's Austin Representative Box
Box Number 01

MFDR Tracking Number
M4-11-3009-01

MFDR Date Received
MAY 6, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "All the CPT codes we billed is payable per Medicare Fee Schedule."

On July 10, 2013, the requestor's representative, Sheena, confirmed payment had been received for CPT codes 95936-TC and 95934-TC and were no longer in dispute.

Amount in Dispute: $288.47

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Denied 95926 TC as This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed. (B291). LCD-Neurophysiological Studies-Title 4F-71AB-R3: There is no need for SEP in the diagnosis of most neuropathies because the conventional nerve conduction study can identify them and no added information is obtained from SEP. The CPT/HCPCS codes included in this policy will be subjected to procedure to diagnosis editing. The attached lists include only those diagnoses for which the identified CPT/HCPCS procedures are covered. If a covered diagnosis is not on the claim, the edit will automatically deny the service as not medically necessary. Diagnoses 722.10, 724.02 and 724.4 is not on the Local Coverage Determination list…CPT 95955 this was incorrectly codes as the physician places sensors on a patient's head in an electroencephalogram (EEG) to measure and record the brain's electrical activity. This code applies to an **EEG during surgery exclusive of surgery to the brain**."

Response Submitted by: Liberty Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 28, 2010	CPT Code 95926-TC - Short-latency somatosensory evoked potential study, stimulation of any/all peripheral nerves or skin sites, recording from the central nervous system; in lower limbs	$148.59	$141.84
	CPT Code 95955-59-TC - Electroencephalogram (EEG) during nonintracranial surgery (eg, carotid surgery)	$139.88	$0.00
TOTAL		$288.47	$141.84

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits
   - D20-Claim/Service missing service/product information.
   - B291-This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed.
   - 150- Payment adjusted because the payer deems the information submitted does not support this level of service.
   - X901-Documentation does not support level of service billed.

Issues

1. Is CPT code 95926-TC bundled in another service billed on the disputed date of service? Is the requestor entitled to reimbursement?
2. Does the documentation support billing of CPT code 95955-59-TC? Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied reimbursement for CPT code 95926, based upon reason code "B291- This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed."

   On the disputed date of service the requestor billed CPT codes 95920-59-TC, 95925-TC, 95926-TC, 95900-TC, 95934-TC, 95934-TC-76, 95936-TC, 95936-TC-76, 95861-TC, 95955-59-TC, A4556 and A4558.

   Based upon National Correct Coding Initiative edits, the allowance for CPT code 95926 is not included in the allowance of another procedure billed on this date; therefore, the respondent's denial based upon B291 is not supported.

   The respondent states in the position summary that "LCD-Neurophysiological Studies-Title 4F-71AB-R3: There is no need for SEP in the diagnosis of most neuropathies because the conventional nerve conduction study can identify them and no added information is obtained from SEP. The CPT/HCPCS codes included in this policy will be subjected to procedure to diagnosis editing. The attached lists include only those diagnoses for which the identified CPT/HCPCS procedures are covered. If a covered diagnosis is not on the claim, the edit will automatically deny the service as not medically necessary. Diagnoses 722.10, 724.02 and 724.4 is not on the Local Coverage Determination list."

   28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

28 Texas Administrative Code §134.203(a)(5) states the Division's will use CMS payment policies for reimbursement methodologies, models, and values or weights including its coding, billing, and reporting, it does not specify the use of Local Coverage Determination policies to determine medical necessity for a covered diagnosis. Therefore, the Division finds the respondent's denial is not supported.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 54.32.

The Medicare Conversion Factor is 36.0791

Review of Box 32 on the CMS-1500 the services were rendered in zip code 76017, which is located in Arlington County.

The Medicare participating amount for code 95926-TC in Arlington County is $96.28.

Using the above formula, the MAR is $141.84.

The respondent paid $0.00. The requestor is due $141.84 additional reimbursement.

2. The insurance carrier denied reimbursement for CPT code 95955-59-TC, based upon reason codes "150-Payment adjusted because the payer deems the information submitted does not support this level of service; and X901-Documentation does not support level of service billed."

   The respondent states in the position summary that "CPT 95955 this was incorrectly codes as the physician places sensors on a patient's head in an electroencephalogram (EEG) to measure and record the brain's electrical activity. This code applies to an **EEG during surgery exclusive of surgery to the brain**."

   The requestor submitted a EEG chart/graph that does not support the code description for CPT code 95955; therefore, the respondent's denial based upon reason codes "150 and X901" are supported. As a result, reimbursement cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $141.84.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $141.84 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	07/12/2013 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.